

Applicant : SLIWA et al.
Serial No. : 10/006,088
Filed : December 5, 2001
Page : 4

Attorney Docket No.: 003-007-C5

REMARKS

The following is a response to the Office Communication mailed August 5, 2003 and the Office Action mailed December 12, 2002.

New claims 92-95 are pending in this application.

Previously canceled claims 64 and 72-79 were rejected as being indefinite. Canceled claims 61, 63-66 and 72-75 were rejected as being anticipated by Marcus. Canceled claims 61-66, 72-75 and 78 were rejected as being anticipated by Cain. Canceled claims 66-71 were rejected as being obvious over Cain. Canceled claims 67-71, 76 and 77 were rejected as being obvious over Marcus in view of Negus.

Applicants submit that new claims 92-95 do not represent an independent and distinct species relative to previously pending claims 61-79 and, therefore, Applicant's respectfully request consideration of new claims 92-95.

The canceled claims were also provisionally rejected over 09/614,991, 09/698,639, 09/699,150, 10/008,997, and 10/006,064. Applicant will consider cancellation of conflicting claims or a terminal disclaimer should the provisional rejection become an actual rejection.

Discussion

New independent claim 92 is allowable over Marcus, Cain and Negus ("cited references") since the cited references do not disclose or suggest the recited combination of an ablating device having a plurality of ablating elements emitting focused ultrasound having the recited characteristics. Specifically, the cited references do not disclose or suggest at least three

Applicant : SLIWA et al.
Serial No. : 10/006,088
Filed : December 5, 2001
Page : 5

Attorney Docket No.: 003-007-C5

ablating elements which each emit focused ultrasound having the claimed characteristics. As such, Applicants submit that new independent claim 92 is allowable over the cited references.

Dependent claims 93-95 are allowable since they depend from allowable independent claim 92 and because they recite independently patentable features.

Applicant asks that all claims be allowed in view of the amendment to the claims and remarks contained herein.

Please apply any appropriate charges or credits to deposit account number 50-1247.

Respectfully submitted,

Date: September 30, 2003

HOEKENDIJK & LYNCH, LLP
P.O. Box 4787
Burlingame, CA 94011-4787
Telephone: 415-412-3322
Facsimile: 650-871-7688


Jens E. Hoekendijk
Reg. No. 37,149

RECEIVED
CENTRAL FAX CENTER

OCT 01 2003

OFFICIAL